

REMARKS

Reconsideration of the present application is respectfully requested. Claims 2 and 3 have been amended. Applicants request the cancellation of claims 1 and 4-18 without prejudice or disclaimer. New claims 19-37 have also been added. Support for new claims 19-37 can be found in the specification at least at paragraphs [0018, 0019, 0021 and 0022] and in the Figures. No new matter has been added with these amendments. Claims 2, 3 and 19-37 are now pending in the application.

In the Office action dated April 22, 2004, claims 12 and 14-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemke (US 5,732,645) in view of Sohm (US 5,911,187) and Kinkead (US 5,697,316), and claims 1, 5-11 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemke in view of Sohm and Kinkead, and further in view of Loomis (US 4,280,435). As to claims 2-4, the Examiner objected to these claims as being dependent upon rejected base claims, but otherwise allowable.

Claims 1 and 4-18 has been cancelled. Accordingly, the rejection of claims 1, 5-11 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Lemke in view of Sohm and Kinkead, and the rejection of claims 12 and 14-18 under 35 U.S.C. § 103(a) as being unpatentable over Lemke in view of Sohm and Kinkead, and further in view of Loomis, are considered moot. Claim 2 has been rewritten in independent form to include all of the limitations of base claim 1; thus, claim 2 should now be in condition for allowance. As new claim 19 depends from claim 2, it is also believed to be allowable. Claim 3 has been amended. As to claim 3 and new claims 19-37, these claims are respectfully asserted to be patentable over the references of record for the reasons stated below.

Independent claims 3 and 31 require, among other things, a fender for protecting a pontoon boat having a fence with a generally horizontally extending rail, including (a) a body portion having a top part extending generally downwardly and outwardly from said the fence rail and a bottom part extending generally downwardly and inwardly towards a float tube of the pontoon boat, with one or more channels extending generally vertically along at least part of the length of the body portion, and (b) a top rim formed atop the body portion with at least a section thereof extending generally inwardly to overlie and contact said generally horizontally extending rail of said fence.

Lemke, Sohm, Kinkead and Loomis, singly or in combination, do not teach or suggest the invention of claims 3 and 31. None of these patents describe any generally vertical channels extending along a body portion as claimed by the Applicant. Channels 170 divide body sections of the fender into portions to better withstand impact forces and dissipate resulting stresses on the fender. Further, these references do not provide a top rim as claimed by the Applicant that can be used with the features of a pontoon boat, namely the horizontally extending rail of said fence.

As seen in FIG. 3, Lemke provides a complicated connector-type assembly that wraps a strap around a rail on a boat hull; this is not a top rim of a fender. The fender of the Applicant's invention also is designed to take side impact loads away from the fence 30 whereas if the Lemke connector assembly were used on such a fence of a pontoon boat, which does not include an outwardly-extending rail support member 82, the strap 38 and other members 42, 44 would likely rest against the fence 30 would transfer impact loads incident on the fender to the fence. Sohm merely discloses pontoon splash rails and the like, but not a top rim of a fender. The top section of the bumper plate of Kinkaid is configured to be attached to the broad top

surface of a boat hull with a suction cup. This arrangement would not work well with a narrow pontoon fence rail, as merely a small amount of lateral movement of any suction cup on the rail surface (e.g., due to forces incident on the bumper) would cause it to at least partially move off of the flat surface of the rail and lose all suction capabilities. Loomis merely discloses an anchor to which a fender may be attached to swing and move freely. Not only is this not a top rim of a fender, but this assembly would not function to provide the benefits of the Applicant's invention; namely, keeping impact forces incident on the fender from substantially reaching the fence 30. The nature of the assembly of Loomis – a free swinging fender – means that the anchor does not in any way work in tandem with the fender to manage impact forces.

Thus, it is respectfully asserted that claims 3 and 31 are not obvious in light of the cited prior art and are thus patentable. Claims 20-22 depend either directly or indirectly from claim 3, and claims 32-37 depend either directly or indirectly from claim 31. Since these claims include all of the limitations of base claims 3 and 31, respectively, claims 20-22 and claims 32-37 are also asserted to be allowable.

As to independent claim 23, this claim requires a top rim formed atop a body portion of the fence with at least a section thereof extending generally inwardly to overlie the generally horizontally extending rail of the fence of the pontoon boat, the top rim being adapted to support at least a portion of the weight of the fender on the generally horizontally extending rail. Lemke, Sohm, Kinkead and Loomis, singly or in combination, do not teach or suggest the invention of claim 23, and do not include the “top rim” limitation for the same reasons as stated above for independent claims 3 and 31.

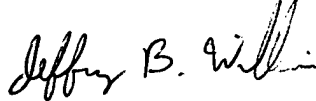
Accordingly, it is respectfully asserted that claim 23 is not obvious in light of the cited prior art and is thus patentable. Claims 24-30 depend either directly or indirectly from

claim 23. Since these claims include all of the limitations of base claim 23, claims 24-30 are also asserted to be allowable.

CONCLUSION

For the reasons stated above, Applicants respectfully submit that pending claims 2, 3 and 19-37 are now in condition for allowance. If any issue remains that would prevent issuance of this application, the Examiner is urged to contact the undersigned prior to issuing a subsequent action. The Commissioner is hereby authorized to charge any additional amount required, or credit any overpayment, to Deposit Account No. 19-2112.

Respectfully submitted,



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